

Cont  
AS  
a pivotally mounted handle attached to each of lateral side walls at a respective one of said brackets, said handle comprising a gripper portion extending substantially parallel to said longitudinal side walls and substantially centered overhead said basket in a first position, said handle positionable to a second position wherein said gripper portion is located laterally from the first position, thereby allowing substantially unobstructed access to said compartment for loading and unloading of silverware.

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**Remarks**

The Office Action mailed August 29, 2002 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-18 are now pending in this application. Claims 1-16 stand rejected. Claims 17 and 18 are newly added.

A fee calculation sheet for the newly added claims along with authorization to charge a deposit account in the amount of the calculated fee are submitted herewith.

The rejection of Claims 1-16 under 35 U.S.C. § 103 as being unpatentable over Stottmann et al. (U.S. Patent No. 5,431,294) in view of Perkins et al. (U.S. Patent No. 6,257,440) or Andreaggi et al. (U.S. Patent No. 3,924,775) is respectfully traversed.

Stottmann et al. describe a flatware basket (31) for use in a modular basket assembly in a dishwasher. The basket (31) includes a bottom wall (36) bounded by spaced apart side walls (37), (38) and end walls (39), (40) forming an open top receptacle. A vertical cross wall (50) extends between the side walls (37), (38) generally midway between the end walls (39), (40), and a handle (52) extends along and projects upwardly from the cross wall (50). A cover (65) is attached to the handle (52) and is movable between a generally vertical position within handle (52) and a generally horizontal position on either side of the handle (52) and covering a portion of the basket (31). Stottmann et al. col. 3, line 22 to col. 4, line 41.

Notably, the handle (52) described by Stottmann et al. is not movable with respect to the basket, and any problems of the handle (52) interfering with loading and unloading of the basket are not recognized by Stottmann et al.

Perkins et al. describe a bucket including a pivotally mounted handle.

Andreaggi et al. describe a lockable angularly adjustable handle (12) attached to a housing (14) of an electrical indicating instrument (10). The handle (12) serves as a support for instrument (10) whereby the front portion of the instrument may be raised above a supporting surface while a rear portion of the instrument rests on the supporting surface. Andreaggi et al. col. 3, line 40 to col. 4, line 32.

The assertion in the Office Action that it would have been obvious to substitute for the handle of the basket of Stottmann et al. with a handle movable at various positions as shown by either Perkins et al. or Andreaggi et al. in order to enhance the handling process is respectfully traversed.

Applicants respectfully submit that a prima facie case of obviousness has not been established. A motivation to combine the teachings of different references must come from the references themselves, and it is impermissible to use the Applicants' specification and teaching as a motivation to combine the references. In the instant rejection, Stottmann et al. discloses a flatware basket assembly with a stationary handle and movable cover, while Perkins et al. and Andreaggi et al. describe a bucket and an electrical instrument with movable handles. Stottmann et al. neither recognize nor suggest that a stationary handle in a flatware basket is problematic in any way, and the bucket described by Perkins et al. and the electrical instrument described by Andreaggi et al. have no apparent connection to the flatware basket of Stottmann et al. Absent the teaching of the present specification there is no clear reason why or how it would have been obvious to substitute a movable handle from an unrelated device (e.g. a bucket or electrical instrument) in a flatware basket. The only proffered motivation for combining the references

cited in the Office Action is "to enhance the handling process." However, nothing in Stottmann et al. suggests that the handle impairs the handling process of the flatware basket, and nothing in Perkins et al. or Andreaggi et al. would suggest application of the handle in the context of a dishwasher flatware basket. It therefore appears that the present rejection is an impermissible hindsight reconstruction of the invention, and for this reason alone Applicants request the Section 103 rejection be withdrawn.

Notwithstanding the above, and in an effort to clarify the invention, the independent Claims have been amended to more clearly define the scope of the invention. It is submitted that the prior art is not suggestive of the claimed invention at issue.

Claim 1 recites a basket assembly for a dishwashing machine comprising "a basket defining at least one compartment having a lattice structure for spray action cleaning of items therein," and "a handle attached to said basket at opposite ends thereof, said handle selectively positionable between a first position and a second position, one of said first and second positions allowing substantially unobstructed access to said compartment for loading and unloading of silverware."

Stottmann et al. in view of Perkins et al. or Andreaggi et al. neither describe nor suggest a basket assembly for a dishwashing machine comprising a basket defining at least one compartment having a lattice structure for spray action cleaning of items therein, and "a handle attached to said basket at opposite ends thereof, said handle selectively positionable between a first position and a second position, one of said first and second positions allowing substantially unobstructed access to said compartment for loading and unloading of silverware."

Rather, Stottmann et al. describe a flatware basket including a cross wall extending between side walls and about half way between end walls of the basket, and a stationary handle attached to the cross wall. Stottmann et al. do not describe or suggest a flatware basket including a movable handle attached to opposite ends of the basket. Perkins et al. describe a cylindrical

bucket with a movable handle attached thereto, and hence the bucket handle is not coupled to opposite ends of the bucket. Andreaggi et al. describe a movable handle attached to the sides of an instrument housing (See Andreaggi et al. Figure 1) and thus the handle is not attached to opposite ends of the instrument. None of the cited art suggests a movable handle attached to opposite ends of a basket having a lattice structure, the handle allowing substantially unobstructed access to a basket compartment for loading and unloading of silverware. In combination, the references fail to teach each of the recitations of Claim 1.

Claim 1 is therefore submitted to be patentable over Stottmann et al. in view of Perkins et al. or Andreaggi et al.

Claims 2-9 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-9 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-9 likewise are patentable over Stottmann et al. in view of Perkins et al. or Andreaggi et al.

Claim 10 recites a basket assembly for a dishwashing machine comprising “a substantially rectangular silverware basket comprising first and second lateral side walls having a first length and first and second longitudinal side walls having a second length, said second length greater than said first length, each of said side walls having a structure to permit water spray action cleaning of items therein,” and “a handle attached to and extending between said lateral side walls and comprising a contoured gripper portion, said handle selectively positionable between a first position and a second position, one of said first and second positions allowing substantially unobstructed access to said compartment for loading and unloading of silverware.”

Stottmann et al. in view of Perkins et al. or Andreaggi et al. neither describe nor suggest a basket assembly for a dishwashing machine comprising a substantially rectangular silverware basket comprising first and second lateral side walls having a first length and first and second

longitudinal side walls having a second length, said second length greater than said first length, each of said side walls having a structure to permit water spray action cleaning of items therein, and a handle attached to and extending between said lateral side walls and comprising a contoured gripper portion, said handle selectively positionable between a first position and a second position, one of said first and second positions allowing substantially unobstructed access to said compartment for loading and unloading of silverware.

Rather, Stottmann et al. describe a flatware basket including a cross wall extending between side walls and about half way between end walls of the basket, and a stationary handle attached to the cross wall. Stottmann et al. do not describe or suggest a flatware basket including a movable handle, and do not describe a handle attached to side walls of the basket. Perkins et al. describe a cylindrical bucket with a movable handle attached thereto with no apparent relation to a rectangular basket. Andreaggi et al. describe a movable handle attached to the sides of a closed instrument housing and supporting the housing in an inclined position above a supporting surface. None of the cited art suggests a movable handle attached to and extending between lateral side walls, as opposed to longitudinal side walls of a rectangular basket having a lattice structure, the handle allowing substantially unobstructed access to a basket compartment for loading and unloading of silverware. In combination, the references fail to teach each of the recitations of Claim 10.

Claim 10 is submitted to be patentable over Stottmann et al. in view of Perkins et al. or Andreaggi et al.

Claims 11-16 depend, directly or indirectly, from independent Claim 10. When the recitations of Claims 11-16 are considered in combination with the recitations of Claim 10, Applicants submit that dependent Claims 11-16 likewise are patentable over Stottmann et al. in view of Perkins et al. or Andreaggi et al.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-16 be withdrawn.

With respect to newly added Claim 17 and 18, Applicants respectfully submit that none of the cited art describes the dishwashing basket assemblies recited therein.

More specifically, Claim 17 recites a basket assembly for a dishwashing machine comprising “a silverware basket defining a longitudinally extending silverware compartment configured for spray action cleaning of items therein” and “a handle attached to said basket and extending longitudinally above said compartment in a first position, said handle movable to a second position allowing substantially unobstructed access to said compartment for loading and unloading of silverware.”

Stottmann et al. in view of Perkins et al. or Andreaggi et al do not suggest a basket having a longitudinally extending silverware compartment configured for spray action cleaning of items therein and a handle attached to the basket and extending longitudinally above said compartment in a first position, said handle movable to a second position allowing substantially unobstructed access to said compartment for loading and unloading of silverware.

Rather, Stottmann et al. describe a flatware basket including a cross wall extending between side walls and about half way between end walls of the basket, and a stationary handle attached to the cross wall and extending laterally between the basket side walls. Stottmann et al. do not describe or suggest a flatware basket including a movable handle, and do not describe a longitudinally extending handle attached to the basket. Perkins et al. describe a cylindrical bucket with a movable handle attached thereto and hence is not suggestive of a longitudinal extending handle Andreaggi et al. describe a movable handle attached to the sides of a closed instrument housing and supporting the housing from beneath the housing such that the housing is situated in an inclined position above a supporting surface. None of the cited art suggests a handle attached to a longitudinally extending basket and extending longitudinally above said

compartment in a first position, the handle movable to a second position allowing substantially unobstructed access to said compartment for loading and unloading of silverware. In combination, the references fail to teach each of the recitations of Claim 17.

Claim 18 recites a basket assembly for a dishwashing machine comprising “a substantially rectangular silverware basket comprising first and second lateral side walls having a first length and first and second longitudinal side walls having a second length, said second length greater than said first length, each of said side walls configured to permit spray action cleaning of items placed in said basket,” “a handle bracket attached to each of said lateral side walls,” and “a pivotally mounted handle attached to each of lateral side walls at a respective one of said brackets, said handle comprising a gripper portion extending substantially parallel to said longitudinal side walls and substantially centered overhead said basket in a first position, said handle positionable to a second position wherein said gripper portion is located laterally from the first position, thereby allowing substantially unobstructed access to said compartment for loading and unloading of silverware.”

Stottmann et al. in view of Perkins et al. or Andreaggi et al do not suggest a basket a substantially rectangular silverware basket comprising first and second lateral side walls having a first length and first and second longitudinal side walls having a second length, said second length greater than said first length, each of said side walls configured to permit spray action cleaning of items placed in said basket, a handle bracket attached to each of said lateral side walls, and a pivotally mounted handle attached to each of lateral side walls at a respective one of said brackets, said handle comprising a gripper portion extending substantially parallel to said longitudinal side walls and substantially centered overhead said basket in a first position, said handle positionable to a second position wherein said gripper portion is located laterally from the first position, thereby allowing substantially unobstructed access to said compartment for loading and unloading of silverware

Rather, Stottmann et al. describe a flatware basket including a cross wall extending between side walls and about half way between end walls of the basket, and a stationary handle attached to the cross wall and extending laterally between the basket side walls. Stottmann et al. do not describe or suggest a flatware basket including a pivotally mounted handle, and do not describe a handle attached to brackets in the basket side walls and extending substantially parallel to longitudinal walls. Perkins et al. describe a cylindrical bucket with a movable handle attached thereto and hence is not suggestive of a longitudinally extending handle. Andreaggi et al. describe a movable handle attached to the sides of a closed instrument housing and supporting the housing from beneath the housing such that the housing is situated in an inclined position above a supporting surface. None of the cited art suggests a handle attached to a longitudinally extending basket and extending longitudinally above said compartment in a first position, the handle movable to a second position allowing substantially unobstructed access to said compartment for loading and unloading of silverware. In combination, the references fail to teach each of the recitations of Claim 18.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Barry et al. :  
: Art Unit: 3727  
Serial No.: 09/784,804 :  
: Examiner: Moy, Joseph Man  
Filed: December 27, 2000 :  
:   
For: DISHWASHER SILVERWARE :  
BASKET WITH SWIVEL  
HANDLE

**SUBMISSION OF MARKED UP PARAGRAPHS AND CLAIMS**

Hon. Assistant Commissioner for Patents  
Washington, D.C. 20231

In furtherance of the response to the Office Action dated August 29, 2002 submitted herewith, Applicants hereby submit marked up versions of the amendments therein.

IN THE SPECIFICATION

Please replace the paragraph on page 4, lines 10-21 with the following paragraph:

Figure 5 is a perspective view of middle basket 12 (also shown in Figure 1) including a front wall 70, a back wall 72, and opposite side walls 74 joined to one another with rounded corners 76. Back wall 72 is substantially parallel to front wall 70 and to a longitudinal axis 78 and includes an attachment member 80 for attachment to a dishwasher rack (not shown). Side walls 74 are substantially parallel to one another, substantially perpendicular to front and back walls 70, 72, and extend a shorter length than front and back walls 70, 72. Thus, middle basket 12 is substantially rectangular and defines a compartment 82 subdivided by dividers 20. Each side wall 74 contains a plurality of attachment fingers 84 including flat [portion] portions 86 and round portions 88 for detachable engagement with apertures or slots (not shown in Figure 5) of

side baskets 14 (shown in Figure 1). Side walls 74 also include a handle bracket 90 approximately centered on an upper rim 92 of side walls 74.

Please replace the paragraph on page 5, lines 9-23 with the following paragraph:

Figure 8 is a perspective view of a portion of basket assembly 10 (shown in Figure 1) with handle 16 illustrated in a first position in solid lines, and in a second position in phantom lines. When in the first position, peg projection 60 (shown in Figure 4) is engaged with crown surface first detent 106 (shown in Figure 7) and handle 16 is approximately centered with respect to basket compartment 82 along longitudinal axis 78 for easy lifting by a user with one hand about handle gripper portion finger grips 34. In the second position, peg projection 60 (shown in Figure 4) is engaged with crown surface second or third detent, 108, 110, respectively, so that handle 16 is pivoted about handle brackets 90 and handle gripper portion 30 is generally positioned laterally of middle basket longitudinal axis 78 toward basket front and back walls 70, 72, respectively. Thus the second position allows substantially unobstructed access to basket compartment 82[ ]. Second and third crown surface detents 108, 110 allow "left" and "right" second positions so that middle basket 12 may be mounted to a dishwasher rack (not shown) using attachment member 80 to accommodate left and right handed users of dishwashers.

#### IN THE CLAIMS

1. (once amended) A basket assembly for a dishwashing machine comprising:

a basket defining at least one compartment having a lattice structure for spray action cleaning of items therein; and

a handle attached to said basket at opposite ends thereof, said handle selectively positionable between a first position and a second position, one of said first and second positions allowing substantially unobstructed access to said compartment for loading and unloading of silverware.

10. (once amended) A basket assembly for a dishwashing machine comprising:

a substantially rectangular silverware basket comprising first and second lateral side walls having a first length and first and second longitudinal side walls having a second length, said second length greater than said first length, each of said side walls having a structure to permit water spray action cleaning of items therein; and

a handle attached to and extending between said lateral side walls and comprising a contoured gripper portion [therebetween], said handle selectively positionable between a first position and a second position, one of said first and second positions allowing substantially unobstructed access to said compartment for loading and unloading of silverware.

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